

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

Damonie Earl, et al.,

Plaintiffs,

v.

The Boeing Company et al.,

Defendants.

Case No. 4:19-cv-507-ALM

Plaintiffs' Opposition to Defendants' Motion to Exclude Mr. Mills' Testimony

Defendants seek to exclude Plaintiffs from offering opinions of economist Robert Mills in support of their motion for class certification. Dkt. 254. The basis of their motion is that (1) Mr. Mills relies upon Plaintiffs' other experts, Dr. Greg Allenby and Dr. Jan Brueckner, and (2) the opinions of those experts should be excluded for the reasons asserted in Defendants' separately filed motions. *Id.* Defendants' motion should be denied for two reasons.

First, Defendants have provided no valid basis for excluding Dr. Allenby's opinions, as set forth in our separately filed opposition to Defendants' motion to exclude Dr. Allenby's opinions. Accordingly, if the Court denies Defendants' motion to exclude Dr. Allenby's opinions, as it should, then it should also deny Defendants' motion to exclude Mr. Mills' opinions that rely upon Dr. Allenby.

Second, Plaintiffs do not rely upon the opinions of Dr. Brueckner in their motion for class certification. Dkt. 276 (Corrected version of motion). Nor do Plaintiffs rely upon Mr. Mills' opinions that are based on or otherwise make use of Dr. Brueckner's opinions. *Id.* Accordingly, the portion of Defendants' motion that addresses Mr. Mills' use of Dr. Brueckner's opinions should be denied as moot.¹

January 29, 2021

Respectfully submitted,

By: /s/ Jeff Eichmann

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¹ To the extent that Plaintiffs submit a merits report from Mr. Mills that relies upon any of the same opinions of Dr. Brueckner challenged by Defendants' motion, Defendants would be permitted to re-urge their challenge to those opinions in a merits-related *Daubert* motion, and Plaintiffs would be permitted to substantively oppose that motion at that time.

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Certificate of service

I certify that the above document was served on counsel of record for all parties on the above listed date via the ECF filing system.

/s/ Jeff Eichmann